

REMARKS

Claims 1-34 were rejected in the Final Office Action dated June 17, 2008 (“Office Action”). Claims 1, 3-8, 11-14, 16-21 and 24-30 were rejected under the doctrine of nonstatutory obviousness-type double patenting. Claims 14-26 and 31-34 were rejected under 35 U.S.C. 101 for allegedly being directed to non-statutory subject matter. Claims 1-34 were rejected under 35 U.S.C. 112, first and second paragraph. Claims 1-3, 5-16, and 18-26 were rejected under 35 U.S.C. 103(a) as allegedly being obvious over United States Patent 5,708,845 (“Wistendahl”) in view of United States Patent 5,873,076 (“Barr”), and in further view of United States Patent 5,936,940 (“Liddy”). Claims 4 and 17 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Wistendahl, Barr, and Liddy in view of United States Patent 6,243,676 (“Wittelman”). Claims 27 and 31 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Wistendahl, Barr, and Liddy in view of U.S. Patent 5,835,087 (“Herz”). Claims 28 and 32 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Wistendahl, Barr, and Liddy in view of U.S. Patent 6,807,231 (“Wiegand”). Claims 29, 30, 33 and 34 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Wistendahl, Barr, and Liddy in view of U.S. Patent 5,525,808 (“Irie”). Claims 14 and 23 are amended, claims 35 and 36 are new, and claims 11 and 24 are canceled without prejudice. Support for the new claims and claim amendments may be found throughout the specification and drawings, e.g., paragraphs 28-30 and figs. 1-5. Additionally, the second instance of claim 32 has been renumbered to claim 33.

For at least the following reasons, the rejections of all pending claims should be withdrawn and the claims should be passed to issue. While this paper is believed to completely address all pending rejections, Applicants reserve the right to set forth other reasons supporting the patentability of the claims, including reasons supporting the separate patentability of dependent claims not explicitly addressed herein, in future papers.¹ Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the

¹ As Applicants’ remarks with respect to the Examiner’s rejections are sufficient to overcome any rejections, Applicants’ silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

taking of Official Notice, and respectfully requests that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

I. Section 101 Rejections

The Examiner rejected claims 14-26 and 31-34 under 35 U.S.C. 101 for allegedly being directed to non-statutory subject matter. Applicants do not acquiesce to this basis of rejection. However, in the interest of moving prosecution forward, independent claim 14 has been amended. As amended, claim 14 positively recites “a computer system having a storage medium containing instructions for controlling the computer system.” The recitation of “a computer system” clearly presents statutory subject matter.

Accordingly, the Section 101 rejections of claim 14, as well as the rejections of claims 15-26 and 31-34 depending therefrom, should be reconsidered and withdrawn for at least the foregoing reasons.

II. Double Patenting Rejection

The Examiner asserted that claims 1, 3-8, 11-14, 16-21 and 24-30 were rejected under the judicially created doctrine of “obviousness-type” double patenting with respect to claims 1-8, 10-19 and 21-22 of parent U.S. Patent No. 6,757,866 (“’866 patent”). Applicants do not acquiesce with this basis of rejection. Specifically, no claim of the ‘866 patent recites “identifying a temporal range.” Additionally, weighing terms “according to a temporal position of the term within the temporal range” is not an obvious variation of the subject matter claimed in the ‘866 patent.

Accordingly, this basis of rejection should be withdrawn for at least the foregoing reasons.

III. Sec. 112 Rejections

A. First Paragraph

The Examiner rejected claims 1-34 under 35 U.S.C. 112, first paragraph, alleging that the recitations of a “temporal range” and “the term score of a term is weighted according to a temporal position of the term within the temporal range” fail to comply with the written description

requirement. With specific reference to figures 2-5 and related portions of the specification in paragraphs 0037-0044 and 0053-0055, Applicants respectfully traverse this basis of rejection. At the outset, Applicants note that Section 112 does not require exact word-for-word support in the specification for claimed elements. For example, the MPEP explains that “[t]he subject matter of the claim need not be described literally (i.e., using the same terms or in haec verba) in order for the disclosure to satisfy the description requirement.” (M.P.E.P. 2163.02, p. 2100-179, emphasis added.)

Each of Figures 2-5 illustrate “the weight to be assigned to different temporal portions of material such as video, based upon a user response at time t_0 .” (Specification, par. 0018-0021.) The figures each include a graph with a time scale along the X-axis and a weight scale along the Y-axis. Merely by way of example, Applicants make reference to the description of Figure 2, where:

it is assumed that there are characteristic fixed delay times t_1 and t_2 , such that the interest of the user in the content of the temporal document begins at time t_2 before the indication of interest and ends at time t_1 before the indication of interest, and is equal between times t_1 and t_2 . A diagram of the interest as a function of time $W(t)$ in this embodiment is shown in Figure 2. While other values of t_1 and t_2 may be used without departing from the spirit and scope of the invention, in this embodiment $t_1 = 2$ seconds and $t_2 = 30$ seconds.

Thus, Figures 2-5 and paragraphs 0037-0044 and 0053-0055 clearly describe a “temporal range” and “the term score of a term is weighted according to a temporal position of the term within the temporal range.”

Accordingly, the Section 112 rejections of claims 1-34 should be reconsidered and withdrawn for at least the foregoing reasons.

B. Second Paragraph

The Examiner also rejected claims 1, 14, and 27-34 under 35 U.S.C. 112, second paragraph, for allegedly being indefinite. The Examiner alleged that “[t]he term ‘temporal range’ ... is a relative term which renders the claims indefinite.” (Office Action, page 4.) However, the allegation that the term “temporal range” is a relative term that renders the claims indefinite is not supported by any authority. In contrast, the M.P.E.P. provides at least two sections supporting the patentability of the claims. For example, with respect to relative terminology, the “[a]cceptability of

the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification.” (M.P.E.P. 2173.05(b), page 2100-215.) Further, with respect to numerical ranges and amount based limitations, “[t]he proper test is whether or not one skilled in the art could determine specific values for the amount based on the disclosure.” (M.P.E.P. 2173.05(c).III, page 2100-217.) As discussed above, figures 2-5 and corresponding paragraphs 0037-0044 and 0053-0055 provide specific and concrete examples of the claimed subject matter. In light of the guidelines of the M.P.E.P. and the examples provided in the specification, Applicants are at a loss to understand how the recited “temporal range” could be considered a relative term that renders the claims indefinite.

Accordingly, the Section 112 rejections of claims 1, 14, and 27-34 should be reconsidered and withdrawn for at least the foregoing reasons.

IV. Sec. 103 Rejections

Under the analysis required by Graham v. John Deere, 383 U.S. 1 (1966), the scope and content of the cited references must first be determined, followed by an assessment of the differences between the cited references and the claim at issue. Additionally, “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). M.P.E.P. § 2143.03. Accord. M.P.E.P. § 706.02(j).

The scope and content of the cited references, as evidenced by Wistendahl in combination with Barr and Liddy, does not include a suggested configuration that includes all of the recitations of the independent claims. The differences between the cited references and the claimed subject matter are significant because Applicant’s claimed subject matter provides for “identifying a temporal range” and “[weighting] the term score of a term ... according to a temporal position of the term within the temporal range.” However, as will be discussed in detail below, any combination of Wistendahl, Barr, and Liddy does not teach or suggest “identifying a temporal range” or “[weighting] the term score of a term ... according to a temporal position of the term within the temporal range.” Because Wistendahl, Barr, and Liddy fail to teach or suggest the

subject matter of the claims, the rejections under 35 U.S.C. §103(a) based on Wistendahl, Barr, and Liddy should be reconsidered and withdrawn.

A. Independent Claims 1 & 14

1. “identifying a temporal range”

Claim 1 recites “in response to a signal of interest at a particular time during the temporal document, identifying a temporal range of the temporal document for which related documents are to be found” in the context of the entire claim. As amended, claim 14 recites a “a computer system having a storage medium containing instructions for controlling the computer system to ... identify a temporal range of the temporal document for which related documents are to be found, in response to a signal of interest at a particular time during the temporal document” in the context of the entire claim. Accordingly, claims 1 and 14 respectively recite “identifying a temporal range” and “identify a temporal range.” The Examiner alleged that Wistendahl teaches the forgoing recitation by explaining that “as the movie runs, the user can point the remote control pointer to a designated actor or object appearing on the television display and click on the desired object.” (Office Action, p. 6-7, emphasis added.) However, Wistendahl merely discloses the instantaneous selection of an object rather than “identifying a temporal range.”

Wistendahl relates to interactive digital media (IDM) including identified objects that are linked with hot spots to interactive functionality. (Wistendahl, Abstract.) However, Wistendahl merely discloses the selection of identified objects, or hot spots, and fails to teach or suggest “identifying a temporal range.” Wistendahl discloses the following user interaction:

Clicking the pointer results in the target’s display location coordinates being detected by the pointer detector module 44. The target’s coordinates are input via the console processor 40 to the IDM program running concurrently with the movie. As indicated at box 41a, the IDM program compares the target’s coordinates to the N Data mapping of “hot spots” stored in memory to identify when a “hot spot” has been selected, and then executes the response programmed by the hyperlink established for that “hot spot,” as indicated at box 41b.

(Wistendahl, col. 8, lines 45-54.)

Accordingly, Wistendahl merely provides for the selection of a hot spot that is instantly on the screen. However, Applicants make reference in the specification that:

a user may not be able to instantaneously think about the changing material that is being presented, make a decision that he is interested, and give the required signal. Moreover, it is understood that while the user sometimes may make a decision about interest based upon what appears or is heard at a particular instant, at other times the decision may be based upon a sequence of material presented over a period of time, rather than based upon the material at a particular instant.

(Specification, par. 0038.)

Accordingly, “identifying a temporal range” is clearly distinguished from the selection of an object or hot spot that is instantaneously presented to the viewer.

Wistendahl discloses that the same object may appear in multiple frames throughout the IDM also does not teach or suggest “identifying a temporal range.” For example, it is irrelevant that the same object may be present in multiple frames because Wistendahl is merely concerned with what is instantly being presented to the viewer at the time of selection and provides no teaching or suggestion of “identifying a temporal range.” Moreover, Wistendahl only executes the function associated with object selected in the instant frame and is wholly unconcerned with objects from previous frames. Accordingly, even though an object may be presented in multiple frames, selecting the hotspot associated with the object does not teach or suggest “identifying a temporal range.”

Wistendahl further discloses an authoring tool including an object motion tracking tool used to track an object over multiple frames. (Wistendahl, col. 10, lines 27-30.) This authoring tool facilitates that association of hot spots to identified objects by allowing the operator to identify an object in a first frame and automatically apply the same hot spot to the object in subsequent frames. (Id.) Accordingly, the authoring tool merely tracks the object over multiple frames and does not “[identify] a temporal range.” Even if, arguendo, tracking an object over multiple frames teaches “identifying a temporal range,” it does not teach or suggest the forgoing recitation as recited in the context of claims 1 and 14. Specifically, entirely different user interactions are involved when using the authoring tool. For example, in one user interaction, a viewer selects a desired hot spot. However, when using the authoring tool, the content producer or author creates the interactive

media by associating hot spots with objects in otherwise non-interactive media. Accordingly, this second authoring interaction is out of context because it does not address the other recitations of claims 1 and 14.

Barr and Liddy are unrelated to temporal documents and therefore fail to teach or suggest “identifying a temporal range.”

Accordingly, the Section 103 rejections of claims 1 and 14, as well as the rejections of the dependent claims, should be withdrawn for at least the forgoing reasons.

2. “the term score of a term is weighted according to a temporal position of the term within the temporal range”

Claims 1 and 14 each recite that “the term score of a term is weighted according to a temporal position of the term within the temporal range.” As discussed above, neither Barr nor Liddy are related to temporal documents and therefore do not teach or suggest that “the term score of a term is weighted according to a temporal position of the term within the temporal range.” Wistendahl does not teach or suggest terms and term scores at all, much less that “the term score of a term is weighted according to a temporal position of the term within the temporal range.”

Accordingly, the Section 103 rejections of claims 1 and 14, as well as the rejections of the dependent claims, should be withdrawn for at least the forgoing reasons.

B. Dependent Claims

Claims 2-13 and 15-34 are patentable at least by virtue of their dependence on an allowable base claim. In addition, the claims are independently patentable. Exemplary dependent claims will be discussed in detail below.

1. Claims 27 and 31

The Examiner rejected claims 27 and 31 as allegedly obvious over Wistendahl, Barr, and Liddy in view of Herz. Claims 27 and 31 recite that “the temporal range precedes the particular time of the signal of interest.” The Examiner acknowledged that Wistendahl, Barr and Liddy do not disclose the foregoing recitation. (Office Action, page 13.) The addition of Herz does not cure

the deficiencies of the other cited references. Specifically, Herz does not teach or suggest that “the temporal range precedes the particular time of the signal of interest.” The Examiner alleged that “Herz discloses computing weighted sum of selected normative attributes of target object, retrieving summarized weighted relevance feedback data, and then computing topical interest of target object for selected user based on relevance feedback from all user.” (Office Action, pages 13-14.) The Examiner further alleged that “Herz suggests that computing the weighted sum of the identified weighted selected attributes to determine the intrinsic quality measure.” (Office Action, page 14.) However, neither summarization of Herz addresses the foregoing recitation. Specifically, Herz does not teach or suggest a “temporal range,” much less that “the temporal range precedes the particular time of the signal of interest.”

Accordingly, the Section 103 rejections of claims 27 and 31 should be withdrawn for at least these additional reasons.

2. Claims 28 and 32

The Examiner rejected claims 28 and 32 as allegedly obvious over Wistendahl, Barr, and Liddy in view of Wiegand. Claims 28 and 32 recite that “each temporal position within the temporal range is weighted equally.” The Examiner acknowledged that Wistendahl, Barr and Liddy do not disclose the foregoing recitation. (Office Action, page 14.) The addition of Wiegand does not cure the deficiencies of the other cited references. Specifically, Wiegand does not teach or suggest that “each temporal position within the temporal range is weighted equally.” Citing “col. 5, line 58 – col. 6, line 34,” the Examiner alleged that “Wiegand discloses the weighted superposition [of] all segments or blocks of image document are considered equally.” (Id.) However, Wiegand discloses an “invention [that] relates to compression and transmission of video signals and, more particularly, to encoding and decoding temporal redundant information present in video signals.” (Wiegand, col. 1, lines 13-15.) Applicants submit that video compression is entirely inapplicable to the present claims. Moreover, the disclosure of a motion compensated predictor by Wiegand does not teach or suggest the recitations of claims 28 and 32. In the context of decoding video, Wiegand merely discloses that “the predictor weights each image segment used in the prediction process and then combines the image segments linearly to obtain the predicted image segment.” (Wiegand, col.

6, lines 12-15.) Additionally, Wiegand discloses that in calculating “the weighted superposition, all [image segments] are considered equally, independent of their spatio-temporal position.” In stark contrast, claims 28 and 31, by way of respective base claims 1 and 14, recite that “the term score of a term is weighted according to a temporal position of the term within the temporal range.” Thus, Wiegand clearly teaches away from the foregoing recitation by explicitly ignoring the spatio-temporal positions.

Accordingly, the Section 103 rejections of claims 28 and 32 should be withdrawn for at least these additional reasons.

3. Claims 29, 30, 33 and 34

The Examiner rejected claims 29, 30, 33, and 34 as allegedly obvious over Wistendahl, Barr, and Liddy in view of Irie. Claims 29 and 33 recite that “the weight of each temporal position within the temporal range increases from a beginning point of the range to a second point of the range, is weighted equally from the second point of the range to a third point of the range, and decreases from the third point of the range to an end point of the range.” Claims 30 and 34 recite that “each temporal position within the temporal range is weighted according to a discrete two stage exponential function.” The Examiner acknowledged that Wistendahl, Barr and Liddy do not disclose the foregoing recitations. (Office Action, page 15.) The Examiner alleged that “Irie discloses in Figure 8 that the weight of each position increases from the beginning point to the second point, is weighted equally to 1 from the second point to a third point, and decreases from the third point to an end point.” (Id.) The Examiner further alleged that “col. 89, lines 9-22” of Irie disclose that “each temporal position within the temporal range is weighted according to a discrete two stage exponential function.” (Office Action, page 16.) However, Irie does not teach or suggest the recitations of claims 29, 30, 33, and 34 and is clearly non-analogous art.

By disclosing an apparatus for use in the semiconductor arts, Irie is non-analogous art. Irie discloses an “invention [that] relates to a method and apparatus for aligning each of a plurality of processing areas (shot areas, chip patterns) aligned on a substrate to a predetermined reference position and, more particularly, to an alignment method and apparatus suitable for an exposure apparatus used in a lithography process in the manufacture of semiconductor elements and liquid

crystal display elements.” (Irie, col. 1, lines 16-22.) Such a disclosure has no relevance to the foregoing claim recitations.

Additionally, Figure 8 of Irie does not disclose the recitations of claims 29 and 33. Specifically, Figure 8 discloses a weight function having a parabolic form. Such a parabolic form does not teach or suggest the weight of each temporal position as recited in claims 29 and 33. Moreover, the weight function described by Irie depends on a physical “POSITION,” or distance “D” and not on a temporal position. (Irie, Fig. 8.) Thus, the cited references do not teach or suggest the recitations of claims 29 and 33.

Irie also does not teach or suggest the recitations of claims 30 and 34. The Examiner cited to column 89, lines 9-22 as allegedly disclosing these recitations. However, Irie is directed at the calculation of physical coordinate positions based on weighted distances rather than temporal positions. (Irie, col 89, lines 1-2.) Thus, the cited references do not teach or suggest the recitations of claims 30 and 34.

Accordingly, the Section 103 rejections of claims 29, 30, 33 and 34 should be withdrawn for at least these additional reasons.

4. New Claims 35 and 36

Newly added dependent claims 35 and 36 each recite that “the temporal range is defined by the particular time of the signal of interest and a second time that is different from the particular time.” The cited references fail to teach or suggest this recitation. For example, Wistendahl merely discloses the instantaneous selection of an object on the screen, as discussed above. The instantaneous selection of an object does not teach or suggest “identifying a temporal range” where “the temporal range is defined by the particular time of the signal of interest and a second time that is different from the particular time.”

Accordingly, claims 35 and 36 are allowable over the cited references.

CONCLUSION

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue. It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013, under Order No. 65632-0536. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

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